

§ 1.752-5

26 CFR Ch. I (4-1-09 Edition)

other person. See §1.705-1(a) for rules regarding when the adjusted basis of a partner's interest in the partnership must be determined.

[T.D. 8380, 56 FR 66356, Dec. 23, 1991]

§ 1.752-5 Effective dates and transition rules.

(a) *In general.* Except as otherwise provided in §§1.752-1 through 1.752-4, unless a partnership makes an election under paragraph (b)(1) of this section to apply the provisions of §§1.752-1 through 1.752-4 earlier, §§1.752-1 through 1.752-4 apply to any liability incurred or assumed by a partnership on or after December 28, 1991, other than a liability incurred or assumed by the partnership pursuant to a written binding contract in effect prior to December 28, 1991 and at all times thereafter. However, §1.752-3(a)(3) fifth, sixth, and seventh sentences, (b), and (c) *Example 3*, do not apply to any liability incurred or assumed by a partnership prior to October 31, 2000. Nevertheless, §1.752-3(a)(3) fifth, sixth, and seventh sentences, (b), and (c) *Example 3*, may be relied upon for any liability incurred or assumed by a partnership prior to October 31, 2000 for taxable years ending on or after October 31, 2000. In addition, §1.752-1(f) last sentence and (g) *Example 2*, do not apply to any liability incurred or assumed by a partnership prior to January 4, 2001. Nevertheless, §1.752-1(f) last sentence and (g) *Example 2*, may be relied on for any liability incurred or assumed by a partnership prior to January 4, 2001 and, unless the partnership makes an election under paragraph (b)(1) of this section, on or after December 28, 1991, other than a liability incurred or assumed by the partnership pursuant to a written binding contract in effect prior to December 28, 1991 and at all times thereafter. For liabilities incurred or assumed by a partnership prior to December 28, 1991 (or pursuant to a written binding contract in effect prior to December 28, 1991 and at all times thereafter), unless an election to apply these regulations has been made, see §§1.752-0T to 1.752-4T, set forth in 26 CFR 1.752-0T through 1.752-4T as contained in 26 CFR edition revised April 1, 1991, (TD 8237, TD 8274, and TD 8355) and §1.752-1, set forth in 26 CFR 1.752-

1 as contained in 26 CFR edition revised April 1, 1988 (TD 6175 and TD 6500).

(b) *Election*—(1) *In general.* A partnership may elect to apply the provisions of §§1.752-1 through 1.752-4 to all of its liabilities to which the provisions of those sections do not otherwise apply as of the beginning of the first taxable year of the partnership ending on or after December 28, 1991.

(2) *Time and manner of election.* An election under this paragraph (b) is made by attaching a written statement to the partnership return for the first taxable year of the partnership ending on or after December 28, 1991. The written statement must include the name, address, and taxpayer identification number of the partnership making the statement and contain a declaration that an election is being made under this paragraph (b).

(c) *Effect of section 708(b)(1)(B) termination on determining date liabilities are incurred or assumed.* For purposes of applying this section, a termination of the partnership under section 708(b)(1)(B) will not cause partnership liabilities incurred or assumed prior to the termination to be treated as incurred or assumed on the date of the termination.

[T.D. 8380, 56 FR 66356, Dec. 23, 1991, as amended by T.D. 8906, 65 FR 64890, Oct. 31, 2000; T.D. 8925, 66 FR 723, Jan. 4, 2001; T.D. 9207, 70 FR 30343, May 26, 2005]

§ 1.752-6 Partnership assumption of partner's section 358(h)(3) liability after October 18, 1999, and before June 24, 2003.

(a) *In general.* If, in a transaction described in section 721(a), a partnership assumes a liability (defined in section 358(h)(3)) of a partner (other than a liability to which section 752(a) and (b) apply), then, after application of section 752(a) and (b), the partner's basis in the partnership is reduced (but not below the adjusted value of such interest) by the amount (determined as of the date of the exchange) of the liability. For purposes of this section, the adjusted value of a partner's interest in a partnership is the fair market value of that interest increased by the partner's share of partnership liabilities under §§1.752-1 through 1.752-5.